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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,854	08/18/2003	Michelle Gaster	PGST0001/MRK	4051
29524	7590	02/01/2006	EXAMINER	
		KHORSANDI PATENT LAW GROUP, A.L.C. 140 S. LAKE., SUITE 312 PASADENA, CA 91101-4710	PRASAD, SONAL	
			ART UNIT	PAPER NUMBER
			3767	

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/642,854	GASTER, MICHELLE	
	Examiner	Art Unit	
	Sonal Prasad	3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/18/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-3, 6-9, 11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gawlik et al. (US 4,807,837) in view of Eidem (US 4,832,294).
Claims 1-3, 8, & 16 differ from Gawlik in disclosing a tubing retraction device. Eidem discloses a tubing retraction device for engaging tubing for administering medical fluids. (Fig. 1, #60). It would have been obvious at the time of invention to one of ordinary skill in the art to include the tubing device to improve the efficiency of the device.

4. Claims 6 & 7 differ from Gawlik in disclosing a means for suspending the medical fluid container. Eidem discloses the medical fluid administration device the telescoping pole comprises a top, and wherein the medical fluid administration device further comprises: a means for suspending the medical fluid container from the top of the

telescoping pole. (Fig. 1, #10) as well as a means for suspending a portable fluid pump. (Fig. 1, #12).

5. Claims 9 & 17 differ from Gawlik in disclosing a collapsible stand as well as a medical fluid pump. Eidem discloses an apparatus for concealed transport of a medical fluid administration device, said device capable of one of infusing medical fluids to, or collecting medical fluids from, a body of a patient during concealed transport, said apparatus comprising: a collapsible stand disposed within a carrying case, said collapsible stand capable of being extended during stationary use; and a medical fluid pump disposed within the carrying case, wherein during concealed transport within the carrying case, said pump is capable of at least one of delivering medical fluids to the body of the patient or collecting medical fluids from the body of the patient.

6. Claims 11-15 & 18-22 describe the apparatus in which the pump is an intravenous fluid delivery pump, or a gastrointestinal nourishment delivery pump, or an insulin delivery pump, a urine collection pump, or a colostomy collection pump. Gawlik et al in view of Eidem meet the limitations of these claims except that it employs an infusion pump rather than the other types of pumps described above. However, because these devices are art-recognized equivalents it is immaterial whether it is an infusion pump or an intravenous fluid delivery pump, one of ordinary skill in the art would have found it obvious to substitute one for the other.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 4 ,5, &10 are rejected under 35 U.S.C. 102(b) as being anticipated by Gawlik et al. (US 4,807,837). Gawlik discloses the medical fluid administration device wherein the telescoping pole is spring loaded. (Fig. 13A, #130, #132). Gawlik discloses the apparatus further comprising: a tubing retraction device for engaging tubing for delivery of medical fluids to, or collection of medical fluids from, the body of the patient. (Detailed description 10).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonal Prasad whose telephone number is 571-272-3383. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sonal Prasad
Examiner
Art Unit 3767

Karen C. Harmon
1/31/06